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**FARM CREDIT ADMINISTRATION'S ROLE IN
THE SYSTEM'S CRISIS**

TWENTY-NINTH REPORT

BY THE

**COMMITTEE ON GOVERNMENT
OPERATIONS**



APRIL 29, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, April 29, 1986.

HON. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Government Operations, I submit herewith the committee's twenty-ninth report to the 99th Congress. The committee's report is based on a study made by its Government Information, Justice, and Agriculture Subcommittee.

JACK BROOKS,
Chairman.

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99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-561

FARM CREDIT ADMINISTRATION'S ROLE IN THE SYSTEM'S CRISIS

APRIL 29, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on Government Operations,
submitted the following

TWENTY-NINTH REPORT

BASED ON A STUDY BY THE GOVERNMENT INFORMATION, JUSTICE, AND
AGRICULTURE SUBCOMMITTEE

On April 22, 1986, the Committee on Government Operations approved and adopted a report entitled "Farm Credit Administration's Role in the System's Crisis." The chairman was directed to transmit a copy to the Speaker of the House.

I. INTRODUCTION

After half a century of careful lending practices aimed at retiring the debt it owed to the Federal Government, the Farm Credit System gained its goal in 1968—just in time to join the rush of easy farm credit during the 1970's.

The rush, which came to be called go-go years in the subcommittee hearing, started after the Soviet Union decided to import grain and did so in a grand way. The nation's demand on U.S. supplies, plus world-wide unfavorable weather for a couple of years, led farmers, traders and the U.S. Government itself to believe that the Golden Age of Agriculture was at hand.

Farmers were urged by the Secretary of Agriculture to plant fence row to fence row. Many heeded the advice and bought additional land to put the fence rows further apart. Some bought additional land so their children could begin farming. Other young people decided to begin on their own. Investors saw an opportunity for profit in land. Prices began to rise and lenders were happy to

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accommodate borrowers whose net worth was ballooning because of the higher land values.

This land boom continued, but commodity prices did not always keep on track—thus farmers were often financing current operations from paper profits of their land. Inflation further fueled the boom. Farmers needed more funds to meet soaring production costs and borrowed more on their land to pay annual credit costs.

The Farm Credit System was in a good position to join the competition to lend. Its loan limit on land had been raised from 65 percent of value to 85 percent, and the valuation had been changed from "normal agriculture value" to current appraised value. The system was using variable interest rates so that it was able to offer lower terms than other commercial lenders; and it was able to do so until the bubble burst and land values began to plummet. The system then found itself forced to raise interest rates on its borrowers at a time when the borrowers desperately needed to lower total costs—including interest—to match drastically lower commodity prices.

The Farm Credit System, which had waxed fat in the booming years, found itself teetering on the brink of disaster by late summer of 1985. Farmers in ever-increasing numbers were finding it impossible to handle their debt service load with the income they were earning from their operations. As they failed to pay, their associations found it more difficult to meet scheduled payments on bonds issued to investors, and the spiral brought the system to a net loss position for the third quarter of 1985. At year end, the system's loss for 1985 was \$2.7 billion compared to a net earning of \$373 million for 1984.

The system is made up of Federal Land Banks, Federal Intermediate Credit Banks, local associations of borrowers (Federal Land Bank Associations and Production Credit Associations) linked to those banks, and Banks for Cooperatives. The system is privately owned in that borrowers are required to purchase stock, and cooperatively operated in that borrower-stockholders elect boards of directors for associations who in turn elect boards of directors for the banks.

The Farm Credit System is supervised and regulated by the Farm Credit Administration. In this report, the Farm Credit System will be called "FCS" or "system" and the Farm Credit Administration will be called "FCA" or "administration."

During the go-go years and for 20 years before, the FCA was an independent Federal agency whose board of directors (the Federal Farm Credit Board) was composed of 12 members appointed by the President with the advice and consent of the Senate and a 13th member appointed by the Secretary of Agriculture. The chief executive was titled Governor and was appointed by the President so long as the system owed the United States Government and by the Board if there was no such debt. (This configuration was changed by the Farm Credit Amendments Act of 1985, Public Law 99-205, enacted Dec. 23, 1985.)

The Subcommittee on Government Information, Justice, and Agriculture conducted a public hearing October 15, 1985, to investigate how the Governor had exercised his authority and responsibility during the go-go years and the following years of bust. The Gov-

ernor, the Honorable Donald E. Wilkinson, had held office since 1977. He was accompanied by Mr. Larry Edwards, deputy governor and chief examiner, and Mr. Larry Medero, general counsel. The subcommittee conducted a hearing on July 15, 1985, at which it received testimony on the history of the Farm Credit System.

The subcommittee wanted to discover if lessons could be drawn from those years of operation which would be useful in any new legislation, or if wrongs had occurred which might need to be corrected before proposed new legislation might take effect.

II. FINDINGS

The committee finds:

1. FCA failed to fully exercise its responsibility to examine FCS components adequately.

2. FCA failed to fully exercise its authority to require sound banking practices by the system.

3. FCA issued regulations for operations by the system but failed to require the system to follow the rules.

4. FCA furthered consolidation of system power at the district level by approving plans to merge all local associations of a district into one on grounds that mergers were necessary to consolidate capital although FCA had authority to move capital.

5. Where local associations decided not to join districtwide mergers, FCA gave the districtwide association authority to compete for business in the dissenting association's chartered territory.

6. FCA supervised the merger election process in a manner which allowed district bank officials to use misstatement of facts and threats of coercion to persuade stockholders to approve districtwide mergers.

7. The system tended to use foreclosure on delinquent loans as a first resort, rather than attempting to work out problems before foreclosure.

8. FCA approved a practice by Federal Land Banks of selling land acquired by forfeiture or foreclosure and financing the sales without requiring borrowers to purchase stock in an association as required by statute.

III. RECOMMENDATIONS

The committee makes its recommendations for improving the operations of FCA and FCS under terms of the newly enacted statute. Recommendations are that:

1. The Chairman of the Farm Credit Administration Board use the full range of authority to examine all units of the system including contracting with audit firms where appropriate and advantageous to government.

2. The Chairman and Board zealously guard the cooperative principles of FCS so that as much authority as possible can be exercised at the lowest possible level of the system.

3. The Chairman monitor closely any future merger elections to insure that members of associations will have adequate and

accurate information well in advance of the date for the balloting.

4. The Chairman not over-charter the territory of any association which declines to join a districtwide merger. (This recommendation was introduced as an amendment during consideration of Public Law 99-205 and became a part of the new statute.)

5. The Chairman issue regulations for the Capital Corporation established by Public Law 99-205 to insure that it is used primarily as a means to keep farmers on the land rather than as a means to foreclose and force them off the land. The Chairman should also insure that training be continued by the system to provide employees with a thorough understanding of methods to work out loans in difficulty.

6. The Chairman require banks, associations, and the Capital Corporation to honor the principle that borrowers must become stockholder-members when acquired land is resold.

IV. BACKGROUND

The Farm Credit System was born to meet a need for agricultural financing that had existed from colonial times. Dr. Wayne Rasmussen, historian for the U.S. Department of Agriculture, told the subcommittee:¹

Throughout our colonial and national history the frontier farmer found it difficult to secure credit. Money was usually scarce, prices low, and both interest rates and risks high. The situation became acute after the Civil War.

* * * *

Farmers' needs were the more acute in that the federal government was aiding financial and business interests by reducing the amount of money per capita in circulation. Many farmers turned to the Greenback movement, the Populist party, or free silver as promising aid, but all failed in their attempts to get more money into circulation. Sensitive to the needs of the business community, the government was indifferent to the farmers' financial problems.

The first governmental recognition of the farmers' credit needs came in 1908 when President Theodore Roosevelt's Country Life Commission called attention in its report to the lack of any adequate system of agricultural credit. * * * The Commission saw a formal rural credit program as promoting rural life and welfare as well as serving to stabilize farm production.

¹ "Does Farm Financing Face Fundamental Change or Current Credit Crisis? (Part 1)," Hearings before a subcommittee of the Committee on Government Operations, House of Representatives, 99th Congress, 1st Session, hereinafter called "Hearings," at 43-55.

Dr. Rasmussen noted that recognition of the need was not met by fact action. Governmental and private organizations studied over the next several years. The government studied the German rural credit system. Private groups—the American Bankers' Association and the Southern Commercial Congress—studied other European credit systems. The Democratic, Republican and Progressive parties pledged themselves to better credit facilities for farmers in their 1912 platforms. Further cooperative studies in 1913 led to proposed legislation in 1914 which failed to gain passage.

Action on legislation was delayed by the need to reconcile three opposing views. One plan called for the establishment of privately owned farm mortgage banks under the supervision of the federal government. Another was for the organization of a system based on cooperative principles, while the third plan was for the federal government to make direct loans to farmers. It was not until July 17, 1916, that the Federal Farm Loan Act was passed and signed by the President. The compromise act permitted the establishment of both privately owned and cooperative farm mortgage banks.

That act set the pattern for today's Farm Credit System. It established Federal Land Banks and authorized farmers to organize local associations. The Federal Government provided the original capital and it was to be repaid by the system. Borrowers were required to purchase stock in their local associations and the associations were to buy stock in the Federal Land Banks. The banks were authorized to sell bonds to raise money for making loans to farmers.

The Federal Land Banks brought a fundamental change to farm mortgage lending. Loans amortized for periods of 20 to 40 years eliminated the need for high interest rates and renewal fees every 3 to 5 years. Competition forced other lenders to gradually follow suit and long-term land loans are now a standard practice.

The Federal Land Banks were joined by Federal Intermediate Credit Banks created by the Agricultural Credit Act of 1923, but that act did not establish local associations to be the "retail outlets" for short-term credit. These were added by the Farm Credit Act of 1933, as were the Banks for Cooperatives to make loans to agricultural co-ops. The Farm Credit Administration was established by Executive order in 1933, as well.

Federal Land Banks make long-term loans to producers to purchase land and the Federal Land Bank Associations act as agents for the banks. Production Credit Associations make short-and-intermediate term loans to producers to finance production and the associations borrow from the Federal Intermediate Credit Banks. Banks for Cooperatives make loans to agricultural co-ops for various business uses, and the Central Bank for Cooperatives participates in loans too large for a single Bank for Cooperatives.²

The Farm Credit System is organized into 12 districts, each with one Federal Land Bank, one Federal Intermediate Credit Bank, and one Bank for Cooperatives. Each district has a board of direc-

² 12 U.S.C. 2011 et seq., 2071 et seq., 2121 et seq.

tors, the members of which serve as the board for each of the district banks. The district board members are selected by the constituent association boards. The PCA boards elect two members of the district board, the FLBA boards elect two members, agricultural co-ops which borrow from the Bank for Cooperatives elect two members, and the Governor appoints a seventh member. The district board can decide to consolidate management by selecting a chief executive officer for the district who also serves as chief executive officer for the three district banks, or they can keep management separated by selecting a chief executive officer for each bank and for the district.³

The Farm Credit Act of 1953 provided the present configuration of the Farm Credit Administration as an independent Federal agency with supervisory and regulatory powers over the Farm Credit System of privately owned, cooperatively operated banks and associations.⁴

The Farm Credit Administration was governed by the Federal Farm Credit Board and the Governor; 12 of the 13 members of the board were appointed by the President, with the advice and consent of the Senate, for 6-year staggered terms from nominees of the 12 Farm Credit System districts. Two were to be appointed each year. The 13th member was to be appointed by the Secretary of Agriculture. The Governor was to be appointed by the President so long as the system owed the United States Government or by the board if there was no such debt.⁵ The debt owed by the system to the Government was repaid on December 31, 1968.⁶

The cost of operating the Farm Credit Administration is borne by assessments on the institutions it regulates. No funds are appropriated to FCA by the Congress, but FCA reports annually to the Congress its budget for the coming year. The figures are included in the budget submitted by the President.⁷

The configuration of the FCA governing structure was changed by the Federal Farm Credit Act Amendments of 1985 (P.L. 99-205) enacted December 23, 1985. This act abolished the Federal Farm Credit Board and Governor and established a Farm Credit Administration Board composed of a chairman and two members appointed by the President, with the advice and consent of the Senate.

V. BASIS FOR FINDINGS

Finding 1. FCA failed to fully exercise its responsibility to examine FCS components adequately

The Federal Farm Credit Act of 1971,⁸ which was a complete revision of prior acts, gave FCA the power to "conduct loan and collateral security review,"⁹ required that each component of the system be examined and audited on a strict schedule by farm credit

³ 12 U.S.C. 2002, 2011 et seq., 2071 et seq., 2121 et seq.

⁴ Hearings at 51.

⁵ 12 U.S.C. 2241, 2242, 2244.

⁶ Hearings at 54.

⁷ 12 U.S.C. 2250 and "Budget of the United States Government, Fiscal Year 1987, Appendix," House Document No. 99-144, at I-6.

⁸ 12 U.S.C. 2001 et seq.

⁹ 12 U.S.C. 2252.

examiners but provided that the required examinations and audits may be made by independent certified public accountants.¹⁰

The act also gave FCA the authority to delegate any of its powers to the district banks.¹¹

In a discussion of the examination functions and schedules, Governor Wilkinson told Chairman Glenn English that in examining any bank or association, "we look at all aspects of the operation of that association. That is different than a CPA, certified public accountant, type of financial audit. We are concerned about the operation of that organization, we are concerned about the credit administration of that organization. We are concerned about the financial."¹²

The Governor was immediately corrected by FCA's chief examiner, Mr. Larry Edwards, who said: "We don't directly examine the quality of the loan assets in FLBAs. That is done by the district bank. We spot check their work in a number of associations each year."¹³

Chairman English asked the Governor: "Don't you also have the authority to hire outside auditors to examine the entire system top to bottom any time you feel like you want to?"¹⁴ The answer was, "No," and Governor Wilkinson went on to explain, "We do not have authority to allow outside auditors to do examination work. The act requires the regulatory agency, as it does with the controller (Comptroller of the Currency) and other regulators, to do the examination."¹⁵

Representative Larry Craig continued questioning about the authority to hire CPAs. He cited the pertinent sentence of 12 U.S.C. 2254, and Governor Wilkinson turned to his general counsel, Mr. Fred Medero, to answer.¹⁶

Mr. Medero then corrected the Governor's earlier statement that FCA cannot hire outside CPAs to examine banks or associations. He agreed that the act authorizes hiring outside help; but said, "The position that the agency has taken is that while independent audits can be carried out by independent accountants, the examination function is not a function accountants are qualified to perform."¹⁷

Governor Wilkinson explained to the chairman that the decision to delegate examination of associations to the banks was made in order to save money. "In past years our interest was to try and keep the cost of this examination work as low as possible because it is added into that interest cost to farmers. That has not worked during this stress period. The banks have not caught those changing situations rapidly enough."¹⁸ The Farm Credit Board had approved a week before the hearing the Governor's proposal to take over all examination work.¹⁹

¹⁰ 12 U.S.C. 2254.

¹¹ 12 U.S.C. 2253.

¹² Hearings at 280.

¹³ Id. at 280.

¹⁴ Id. at 281.

¹⁵ Id. at 281.

¹⁶ Id. at 287.

¹⁷ Id. at 287.

¹⁸ Id. at 281.

¹⁹ Id. at 281.

It was clear from these discussions that the Governor was not sure what his authorities were¹ and that FCA had made its decisions on who should do the required examinations with an eye toward whose books carried the cost—the banks or FCA. FCA's total operation is funded by assessments on the system.

Finding 2. FCA failed to fully exercise its authority to require sound banking practices by the system

Governor Wilkinson testified that FCA found in 1978 that PCAs in the Spokane district were making unsound loans to commercial fisheries. He said the examiners found that loan officers were "failing to utilize the same credit standards in making those loans as they even were in that very area in making agricultural loans."²⁰

He said the examination report was delivered to the district board of directors and it was discussed with the management of the bank. He indicated that neither the board nor the management took any corrective action at that time. He said that "it was only literally years later, many months later, that we were able to negotiate, coerce the board of directors to recognize the seriousness of their problems."²¹

Governor Wilkinson said FCA had no authority to remove a board member or any of the management structure—"we had and have no authority to cause them to cease that operation."²²

Chairman English asked if FCA had taken other steps to remedy the situation, including going to the public through the press, asking Congress for additional authority, or having the members of the Federal Farm Credit Board discuss the situation with the district board members.²³

The Governor said that he discussed the problem with some Members of Congress and that the Federal board did try to work with the district board.²⁴

Representative Craig elicited from Governor Wilkinson that he had one authority which could have been used to force the Spokane district to correct the unsound banking practices in addition to his authority to discuss and negotiate. The Governor could have refused to allow the institutions to borrow money, he said. "This is a devastating authority, one which I have never used and hope that I will never have to use," Governor Wilkinson said.²⁵

"Why would you want to plead with anybody if you have the power to cut off their blood," Representative Craig asked.²⁶

"Because it is too severe a method of bringing about change," the Governor answered.²⁷

"If you saw as you did the problem in the 12th district, I cannot understand why you couldn't walk into the 12th district board and the president of that bank and say, gentlemen and ladies, if you don't do the following things you are going to have to go some-

²⁰ Id. at 276.

²¹ Id. at 276.

²² Id. at 276.

²³ Id. at 277.

²⁴ Id. at 277.

²⁵ Id. at 283 and see 12 U.S.C. 2252 (8).

²⁶ Id. at 284.

²⁷ Id. at 284.

where else besides the funding corporation to find your money. Now, are they going to say buzz off, Governor," Representative Craig asked.²⁸

The Congressman pointed out another authority that FCA could have used to require the district to correct problems. He said the Governor told him at an earlier time that FCA had "limited authority" to remove a bank president by refusing to approve his salary.

Representative Craig and Governor Wilkinson discussed how the problems of the unsound lending had been tied to the president of the bank, but the board would not take action to remove him.

"Would you have gotten a response if you had said, I disallow the salary of your president," the Congressman asked.²⁹

"I think it probably would have shocked the board," the Governor answered.

"Didn't they need to be shocked if they brought the system down," Representative Craig asked.

"They did but I chose not to use that salary because I did not feel that was its intended purpose," Governor Wilkinson answered.

Upon conclusion of the exchange, Representative Craig commented, "I have decided our Governor is unlike most Federal bureaucrats. He is tremendously fair and just and judicial and never ever does what most Federal bureaucrats do: push, shove, encourage, suggest and then sometimes use their authority."³⁰

Because of unsound lending practices which were detected as early as 1978, eight of the PCAs in the Spokane district were found insolvent in late 1984 and early 1985 and were liquidated. This caused the Spokane Intermediate Federal Credit Bank to call upon the system for financial assistance under loss-sharing agreements in order to avoid its collapse. Although no one at the hearing wished to use hindsight to declare that early action would have prevented the liquidations, there was a clear feeling that lack of early action made it certain the liquidations could occur.

Finding 3. FCA issued regulations for operations by the system but failed to require the system to follow the rules

Representative John Spratt and Mr. Edwards discussed the examination rules issued by FCA to the district banks. After establishing that the financial recording rules dealing with losses have not always been followed, Mr. Spratt said, "I don't think your financial accounting rules correspond to the reality of the situation."³¹

Mr. Edwards responded, "I don't think, Mr. Spratt, there is anything wrong with the rules. There is a problem, has been a problem, with the implementation of those rules. The system is not yet up to full GAAP disclosure. We anticipate they will be by year end."

²⁸ Id. at 284.

²⁹ Id. at 337.

³⁰ Id. at 330.

³¹ Id. at 291-293.

Mr. Spratt asked, "Who is reponsible for the fact we have not had full implementation of those rules and regulations that the FCA has imposed?"³²

Mr. Edwards answered, "The agency promulgated them. It is responsible for enforcing them and has been responsible for implementing them. They have been enforced as rigorously as we can, sir."

Mr. Spratt then asked what accounts for the "lack of rigor," but Mr. Edwards' answer dealt with the speed at which the agriculture situation had deteriorated rather than with efforts of FCA to enforce its rules.³³

Chairman English discussed an FCA regulation which requires district boards to adopt plans to minimize competition, maximize coordination and reduce association costs through joint and adjacent housing. Governor Wilkinson said the regulation's purpose is to urge and encourage, "but it does not say, Mr. Chairman, we can mandate that."³⁴

The regulation, however, includes a series of policy areas to be addressed by district boards who are required to adopt policies. The lead-in section of the regulation states, "Each district board *shall* establish policies and coordinate the activities of the banks and associations in its district. These policies *shall* provide appropriate guidance in the areas enumerated herein. * * *"³⁵

The failure of FCA to force the district banks to follow examination rules had the effect of the system appearing to be in a net earning status at a time when close adherence to generally accepted accounting principles would probably have shown the system to be in a net loss status. It should be noted, of course, that the massive loss of farm income and the resulting inability of farmers to pay their debts led to losses of the system, not the incorrect statement of profit and loss by the system.

Finding 4. FCA furthered consolidation of system power at the district level by approving plans to merge all local associations of a district into one on grounds that mergers were necessary to consolidate capital although FCA had authority to move capital!

The Federal Farm Credit Act has always contemplated that it might be desirable or necessary to consolidate like units of the system; i.e., two or more Federal Land Banks or two or more Production Credit Associations, etc. The statute contemplates that two or more like units will voluntarily decide that a merger is desirable. In that event the boards of the units would sign an agreement, propose a merger plan including data required by statute and FCA regulations, and after receiving approval from the district bank and FCA, submit the plan to all involved stockholders. If the stockholders approved, the merger would become effective after both the district bank and FCA gave final approval. The last action would be issuance of a new charter or certificate of territory by the Gov-

³² Id. at 291.

³³ Id. at 293.

³⁴ Id. at 531.

³⁵ 12 CFR 616.6010, 616.6020.

error. The statute also recognizes that a merger might be "forced" in order to prevent liquidation of a bank or association.³⁶

Both types of mergers had occurred over the years. When associations are merged, the effect of an individual stockholder's vote for board members is diluted by the larger number of eligible voters, thus a case can be made that the larger the merged organization the less local control exists.

A new type of merger came on the scene in 1985. In five districts, proposals were made to consolidate local associations. In four cases the proposal was to merge all like associations into one for the district, and in one case it was to be one for each State. At the beginning of the year there were 803 local associations of both types. If all the proposed mergers had been consummated, 277 local associations would have disappeared by the end of 1985.³⁷

The first of these proposals came in the Spokane district following its request to the rest of the system for financial help. The other districts answered the call, but included a demand that Spokane put its financial house in order first.³⁸

The Spokane district proposed to meet the demand by merging associations in order to pool capital (some associations are stronger than others) and save operating costs by joint operations. Testimony showed that the district proposed first to merge its PCAs into nine associations, but FCA rejected the proposal—it required, in effect, merger into one PCA for the district.³⁹ When the proposal was finally put to stockholders, it called for one PCA and one FLBA for the district. Stockholders were notified there would be no assistance from the other 11 districts unless the mergers were approved.⁴⁰ (Loss sharing agreements between all units of the system required the system to come to the aid of Spokane, but this was not explained clearly to stockholders.)

Stockholders of one FLBA and two PCAs refused to join the mergers. One of the PCAs, Montana Livestock PCA, voted to return its charter to Governor Wilkinson and strike out on its own.

The financial assistance package was predicated on a plan that all associations would merge, so it was necessary to get FCA and system approval for a new proposal and a new vote. The second balloting was on a proposal that Eastern Idaho PCA be allowed to exist independently in the system but all other district PCAs would be consolidated into one—with Montana Livestock PCA no longer in the system. The dissenting FLBA voted to join the consolidation.⁴¹

In the meantime, the Omaha District Federal Intermediate Credit Bank fell on hard times and called for assistance from the rest of the system. In this action, the other institutions required consolidation of PCAs in order for Omaha to get the assistance.⁴²

³⁶ 12 U.S.C. 2181, 2183 and 12 CFR 611.1100, 611.1120.

³⁷ Hearings at 313.

³⁸ *Id.* at 285.

³⁹ *Id.* at 323.

⁴⁰ "Merger Disclosure Information for Stockholders, Continuing Association: Interstate PCA," June/July 1985, at A-2.

⁴¹ Hearings at 320.

⁴² *Id.* at 323.

In the first round of voting, several associations declined to join the single unit. Omaha's district management solved the impasse by calling for another vote by the dissenting associations, and told stockholders that if they voted wrong there would be no assistance.⁴³

The other three districts proposing similar mergers did so on the grounds that it was necessary to consolidate capital and cut operating costs. These districts were Jackson, Wichita, and Louisville. In the Jackson district, which proposed one PCA for each State, all associations voted to join. In the two districts which proposed only one association for the entire district, one or more associations voted not to join.

During the hearing, Chairman English discussed the rationale for the merger proposals with Governor Wilkinson. The chairman pointed out that mergers are not necessary in order to establish cost-cutting joint operations. FCA has an existing regulation which requires districts to establish policies which foster joint operations, but FCA did little to enforce the regulation.⁴⁴

Chairman English also pointed out that the Governor has statutory authority to move capital from any unit in the system to any other unit, so the rationale that mergers are needed to consolidate capital is invalid. FCA issued a regulation in September outlining the conditions under which the Governor could move capital between units of the system; but Governor Wilkinson explained, "It was never the intention, Mr. Chairman, of FCA nor its Federal Board to utilize that authority to do the massive job of consolidating capital, which the system is recognizing is its own responsibility."⁴⁵

Chairman English responded, "Mergers wouldn't have been necessary, elimination of the cooperative nature of this whole system wouldn't be necessary if you had done that job, and you didn't do it."

Finding 5. Where local associations decided not to join districtwide mergers, FCA gave the districtwide association authority to compete for business in the dissenting association's chartered territory

The section of the Farm Credit Act governing merger of associations gives to the stockholders the right to say yes or no. The Governor cannot approve a merger proposal which has not been approved by the stockholders.

Yet, in the districtwide merger election of the Spokane district, the Governor was prepared to give the new Interstate PCA the right to establish offices and seek business in the territory of the one PCA, Eastern Idaho, whose stockholders voted not to join.⁴⁶

Eastern Idaho PCA sued to stop this move, but failed to gain an injunction. The judge, in comments from the bench, said that he would not substitute his judgment for that of the Governor; but he

⁴³ "New vote asked on merging of credit units," by Jerry Perkins, Des Moines Register, Nov. 28, 1985.

⁴⁴ See discussion for Finding No. 4.

⁴⁵ Hearings at 314.

⁴⁶ Id. at 322.

noted that Eastern Idaho PCA would be financially damaged by a competing association.⁴⁷

In the districtwide merger proposals of the Wichita and Louisville districts, local associations were notified in advance that if an association voted not to join, the new association would set up competing offices.⁴⁸ Even with this threat, several in each district decided to keep their independence.

The Governor took the position that the votes of stockholders of merging associations should have more weight than those of dissenting associations.

Chairman English said, "Now the question comes, Mr. Wilkinson, who owns this system? Is it those stockholders like they have got in Eastern Idaho and New Mexico and in Oklahoma, or is it someone else?"⁴⁹

Governor Wilkinson answered, "Mr. English, it is the 92 percent of the stockholders of the district in Spokane that voted affirmatively to consolidate their resources under one association that owned that district. It is not just the stockholders of Eastern Idaho."

In another exchange, the chairman said that the threat to merge or face competition amounts to a statement of "either commit suicide or I will kill you."⁵⁰ Governor Wilkinson said, "All right, let's get back to a very basic point. The Federal Intermediate Credit Bank is the creditor, it it not? It is extending loans to a number of Production Credit Associations. It is the creditor, it is a borrower-lender relationship. It has, and its board has fiduciary responsibilities to do whatever is necessary to protect that loan, a multimillion dollar loan to a given association. How can that board and how can that bank management allow a Production Credit Association to function in an isolated area in a manner that may not be prudent in handling its loan—its relationship with the Federal Intermediate Credit Bank?" But the Governor was unable to say that any of the dissenting PACs under discussion at that point was handling its portfolio in an imprudent manner, and that they were all strong.

His answers also failed to recognize the uniqueness of the Farm Credit System—the borrowers own the associations and the associations own the banks—so that a loan from an Intermediate Credit Bank to a PCA is a loan to the owners of the bank. The borrowed funds are loaned by the PCA to a farmer who is an owner of the association. Trying to sort out fiduciary responsibility in that situation can become circular.

⁴⁷ Id. at 323.

⁴⁸ "Consolidation Disclosure Information for Stockholders, Consolidated Association: Ninth District Production Credit Association," December 1985, hereinafter called "Wichita Disclosure;" and "Consolidation in the Fourth Farm Credit District, Disclosure Information for Stockholders of the Production Credit Associations," hereinafter called "Louisville Disclosure."

⁴⁹ Hearings at 318.

⁵⁰ Id. at 317.

Finding 6. FCA supervised the merger election process in a manner which allowed district bank officials to use misstatement of facts and threats of coercion to persuade stockholders to approve districtwide mergers

FCA's regulations⁵¹ require stockholders to be furnished disclosure statements prior to voting on proposed mergers. These statements include a discussion of why the merger is proposed, the merger agreement signed by the association boards, proposed temporary board members of the new association, proposed by-laws, and financial statements for both the existing association and the proposed new association. The disclosure statements are sent to stockholders along with notice of a special meeting to vote on the proposal. The notice and statement are purportedly from the local board to the association members, but in reality are sent from the district office to stockholders and are supposed to be sent 10 days before the special meeting. In the Louisville district, several members of Land Bank Association boards of directors did not receive their disclosure statements and notices of special meeting until after the voting date.⁵²

Each proposed disclosure statement must be approved by FCA before it can be issued to stockholders. The subcommittee asked for copies of all disclosure statements used in 1985 for state- and district-wide mergers. Some of those supplied were final copies as sent to stockholders and some (because of the timing of the request) were copies of proposed statements as edited by FCA.

Chairman English quoted for Governor Wilkinson a statement dealing with possible congressional action which FCA had required for the disclosure statement of the Omaha district. Included in the statement was the sentence: "However, many sources, both in Congress and the administration, have indicated it would be necessary for the Farm Credit System to prove that it has fully utilized its own resources before any form of financial assistance might be authorized."⁵³

Governor Wilkinson agreed with the chairman that any disclosure statement which mentioned possible Federal assistance would have to be worded in a similar vein.

Chairman English then read a press release from the Wichita district which included the statement that administration and congressional leaders have "challenged the Farm Credit System to consolidate."

"The question is, do you require one thing up here on the printed statements, but whenever they ship out the press releases and what kind of stuff they sent out to the folks in any little letters and messages, that can be something completely untrue?" the chairman asked.

Governor Wilkinson responded that it would be significant for the press release to say what was being consolidated. Chairman English read the release language to the Governor, then asked if the statement was true.

"No, that is not exactly correct," Governor Wilkinson said.

⁵¹ 12 CFR 611.1120.

⁵² Staff telephone interview with Mr. Roger Gwen, a director of a Louisville district FLBA.

⁵³ Hearings at 318.

"They lied to them, didn't they. That is what they did, they lied," Chairman English said.

"They didn't lie, they just didn't communicate the total story. The purpose for consolidation in Wichita is to bring its financial resources into one pool," Governor Wilkinson said.⁵⁴

In a discussion of the disclosure statement of the Spokane district, it was pointed out that stockholders were told that the nation's farm credit banks have made the consummation of mergers a condition of proposed financial assistance. Mr. Edwards had previously testified that the Spokane merger was not required by the system.

Chairman English questioned why the Governor would approve a disclosure statement including the false information.

"I think you are maybe arguing semantics," Mr. Edwards said. "A part of the proposal was the Spokane system put forward a plan acceptable to the system. Spokane did that. That was the merger."⁵⁵

"What we are talking about here * * * is what we tell stockholders," Chairman English said.

The Governor joined the discussion and Chairman English told him, "We are talking about here, coercion, misinformation, people being lied to."

But Governor Wilkinson maintained. "You cannot call that being lied to. That is a very adequate, proper disclosure statement that would get by SEC, I think."

Chairman English also cited a newspaper report of a meeting of stockholders in Oklahoma where the proposed chief executive officer of the proposed districtwide PCA was quoted as saying that the merger had already occurred and stockholders were being asked if they wanted their association to join.

"That means that the stockholders are out there getting a lot of misinformation on which to vote, doesn't it?" Chairman English asked.

In a discussion of coercion involved in merger proposals, Chairman English cited a letter from the president of the Wichita district to a Federal Land Bank Association board in answer to a question of what would happen if the association voted not to merge.

"He wrote them a letter saying the district could reassign all of the Anadarko loans to another association, eliminate all payments to the association from the Federal Land Bank, but that the local association would still be liable for providing capital to the bank under the loss-sharing agreement," Chairman English said. "Mr. Perry (Mr. J.K. Perry, president of the Wichita district) went on to say, and I am going to quote here, 'I would hope that we would not have to use this approach in the future. However, if the viability of all associations and Federal Land Banks are at stake, I feel certain any and all action would be considered.'"⁵⁶

The association's board chairman wrote to Chairman English saying, "I hate to see the loss of all local control and so does my

⁵⁴ Id. at 319.

⁵⁵ Id. at 325.

⁵⁶ Id. at 316.

entire board of directors, but do we have a choice?" The chairman commented, "In effect, either commit suicide, or we are going to kill you, that is the message that was sent forth with this letter. Is this consistent with your policy, Mr. Wilkinson?"

Mr. Edwards answered, "When I received the letter, I sent a letter to the chairman of the Wichita board and informed him that the bank could not take the actions it was proposing to take as a result of failure of any association to approve the merger, and if there were coercive tactics going on, any support we had provided that merger would be withdrawn."

Chairman English then cited an instance in the Wichita district where boards of two PCAs in New Mexico refused to recommend the merger to their stockholders and were told that if the PCAs did not join, the new association would be set up in competition. "What is the difference between * * * the message that was sent to the * * * New Mexico PCA * * * and the message Mr. Edwards told us you all were so opposed to that was sent to the Anadarko Federal Land Bank? They are both coercive," the chairman said.

The Governor said that there is a time and place where there might need to be overchartering. At any rate, the disclosure statement for Wichita clearly stated that the districtwide associations would be in competition with any association which refused to merge.

In answer to a written question by Representative Tom Kindness, ranking member of the subcommittee, Governor Wilkinson said, "In each case where a proposed association charter overlaps with the charter of another association, the Governor must determine whether granting the overlapping charter will result in injurious competition, but that does not preclude any competition between associations." In answer to another question from Mr. Kindness, the Governor said, "Generally, there will be pressures from the district levels on individual associations to vote for district approved merger plans." He went on to say that FCA monitors the process and disapproves of coercive action.⁵⁷

When a merger of associations is proposed, disclosure statements must be sent to all stockholders before they vote. These statements are written by personnel of the district banks, approved by FCA, and sent to stockholders purportedly from the directors of the involved associations. An examination of statements indicates their reliability can be questioned.

The Omaha district disclosure statement for PCA issued for the first round of voting indicates that the Federal Intermediate Credit Bank of Omaha was in such dire straits that it would fail without assistance from the other banks, and that the assistance needed would be \$75 million for loss sharing, \$240 million for buying up bad loans, and another \$25 million on standby during 1986 if needed—a total of \$340 million.⁵⁸

Nine Omaha district PCAs voted against merger, so they were told to vote again. The disclosure statement issued for that round of voting indicates that the financial status of the FICB and PCAs

⁵⁷ Id. at 358.

⁵⁸ "Merger Disclosure Information for Stockholders, Continuing Association: Scottsbluff PCA," hereinafter called "Omaha Disclosure," at A-7.

had deteriorated since the first disclosure statement and that the proposed merger and proposed financial assistance "does not guarantee the survivability of PCAs in the Eighth Farm Credit District."⁵⁹

On the day of the voting by the nine PCAs, the president of the Farm Credit Capital Corp., which was established to channel assistance to Spokane and Omaha, announced that the Omaha banks would need "significantly less" than \$200 million in assistance. This information was not before the stockholders before the vote, either in the press or in the official disclosure statement.⁶⁰

A different instance of reliability occurred in the Wichita district. The disclosure statements for both PCAs and FLBAs stated that the newly merged associations would be put in competition with any association which voted against the merger proposal.

By the time of the scheduled voting, the information obtained during the subcommittee's hearing had received widespread attention through the media and it was fairly evident that new legislation would be enacted to allow the system to pool capital—thus the rationale for Wichita's merger proposal would be moot.

Senator David Boren (OK) asked Wichita to reschedule the vote until after Congress had adjourned for the first session. Mr. Jack Perry, president of the Wichita district, declined to reschedule because the chain of events was in motion; but he committed to Senator Boren that if legislation similar to that being considered was enacted, any association which voted to merge would be urged to reconsider and vote again. Mr. Perry required that his letter to Senator Boren be read to stockholders at the special meetings before they voted.⁶¹

After the new legislation was enacted, Mr. Perry announced that the merger would become effective as planned and that associations which voted to merge would not be allowed to reconsider.

Congressional inquiry by both Senator Boren and Chairman English brought Mr. Perry and the district board to the conclusion that the associations would have to be allowed to reconsider. But the announcement of the opportunity cited dire consequences and urged the merger be continued rather than the original pledge to urge the merger be dissolved.

This was an instance of unreliability of the disclosure statement as well as the written (and publicly read) word of the district president.

Finding 7. The system tended to use foreclosure on delinquent loans as a first resort, rather than attempting to work out problems before foreclosure

Representative Spratt put his finger on the problem of system institutions rushing to foreclosure. In a discussion with Mr. Edwards of how losses are recorded, he showed how a nonaccruing loan is

⁵⁹ "Omaha Farm Credit Banks grow weaker," by Jerry Perkins, Des Moines Register, December 22, 1985.

⁶⁰ "Nine PCAs change their tune; second ballot favors merger," by Jerry Perkins, Des Moines Register, December 28, 1985.

⁶¹ Letters from Mr. J.K. Perry and Mr. Ron Wilson of the Wichita district to Senator Boren, Representative English, and directors of local associations; and press releases by the Wichita district, retained in subcommittee files.

sometimes carried as active. This is in a situation where the value of the collateral is more than enough to cover the loan. Mr. Edwards said he saw nothing wrong with the practice so long as the debt is fully collectible.

Representative Spratt rejoined, "Why aren't you working out an arrangement with your borrower to restructure the debt or to allow him a moratorium during which he can get back on his feet and repay it?"⁶²

Mr. Edwards said that it is generally to the advantage of an institution to restructure loans because the return is greater than through the foreclosure route, but "I think in most foreclosure cases you probably have already had that period of moratorium."

Later Representative Spratt returned to the subject of foreclosures and showed how FCS is in a better position to work out loans than other lenders are. He said that FCS has conservative land valuations, well drawn mortgage instruments, viable interest rates, long-term land mortgages, first-lien security, Federal preemption, and no private-sector shareholders looking for profits.⁶³

Mr. Edwards agreed to the listing although he said FCS members would prefer that any profits be returned through lower interest rates.

"The reason I am laying this basis is that I have found your associations to be * * * rather wooden and inflexible and rigid in their workout attitudes," Representative Spratt said.

He cited a specific case in his district where the farmer was involved in a workout situation and sold timber to generate cash for debt payments. The farmer paid off his PCA loan, and attempted to make the current FLB payment. FLB required the money to be paid on the last amortized payment rather than on current payment.

"This kind of attitude in the world we live in strikes me as being self-defeating," Representative Spratt said. "You are going to bring the house in on top of yourself if you follow this kind of practice. I think you have the room, the latitude to work out of situations like this. You are going to lose something in the long run, but if you force property on the market to be sold on the courthouse steps, you are going to bring down values, and you are just going to find yourself and other farmers further distressed."

Mr. Edwards, agreed in principle, but said, "The system's institutions, farmer boards are very reluctant to compromise loans in the system."

Representative Spratt said, "I think you are going to have to develop some attitude and some procedures for workouts and convince your people out in the field that, while this is not optimal, it is something we are going to all have to live with, and I hope you pursue that."

Mr. Edwards said that the proposed Capital Corporation, established in Public Law 99-205, would be staffed with people skilled in loan workout. It was also noted that FCA and FCS have established courses to train employees in workouts.

⁶² Hearings at 292.

⁶³ Id. at 296.

Finding 8. FCA approved a practice by Federal Land Banks of selling land acquired by forfeiture or foreclosure and financing the sales without requiring borrowers to purchase stock in an association as required by statute

The Federal Farm Loan Act of 1916 established the principle that borrowers from Farm Credit institutions must own stock in an institution. This principle has been continued through the years.

In 1985, Federal Land Banks in at least two districts sold land acquired by forfeiture or foreclosure and offered special financing terms not available to regular borrowers. In some cases the interest rate was reduced. In others, borrowers were not required to purchase stock. And in other cases, both reduced interest rates and no stock purchase was offered.⁶⁴

Chairman English asked, "Do you believe these transactions are following the spirit and the intent of the Farm Credit Act?"

Governor Wilkinson's answer was, "I think you have to recognize first you are not dealing with a borrower. These individuals who are negotiating the purchase of these acquired properties is [sic] not coming to the bank or to the association for a loan."

He and Mr. Edwards maintained that the sales were being made through purchase money mortgage contracts where the seller holds title to the land until the buyer finishes paying through the terms of the contract.

Representative Spratt pointed out that remedy for failure to fulfill the purchase contract is the same as for failing to pay back a mortgage loan—foreclosure.

Mr. Medero said FCA has taken the position that an institution needs the flexibility to structure sales in a way which will get the property off the books as quickly as possible. He said that is consistent with the position taken by other banking institutions. He told Representative Craig that in some cases it is necessary for the institution "to finance the sale by a purchase money contract."

Chairman English said, "To all of us folks that aren't lawyers, Mr. Medero, a loan is a loan is a loan."

"That is correct," Mr. Medero said.

"What you have done is you have loaned money," the chairman said.

"That is correct," replied Mr. Medero.

"It says right here (in the Farm Credit Act) if a loan is going to be made through an association, and it is by an association, that the borrower shall subscribe to stock and in this circumstance, you are not requiring him to buy stock," Chairman English pointed out.

"Don't you think this really destroys the whole perception and certainly the concept of a cooperative? What do you think the members out there themselves are thinking about this kind of an operation?" the chairman asked Governor Wilkinson.

The Governor answered that he believes members would approve of getting acquired property off the books as quickly as possible. "His response, in my estimation, as a businessperson would be, sell that property where you can get the greatest return as fast as pos-

⁶⁴ Id. at 304.

sible back into my association, and that is what has been done through this contractual process and that is separate from being part of the cooperative system."⁶⁵

Later, Representative Craig asked Governor Wilkinson, "So, what you are saying is a contract is not a loan." And the answer was, "That is what I am saying."⁶⁶

After exploring details of the sales, Representative Craig said, "You are saying, 'We will not violate the relationship we have had over the years, to borrow money from us, you must buy stock in us,' because you are now saying, 'To borrow money from us or borrow land from us, you may not have to buy stock.'"

In answer to a written question from Representative Kindness, the Governor said FCA is relying on a section of the Farm Credit Act which authorizes Federal Land Banks to "Acquire, hold, dispose, or otherwise exercise all the usual incidents of ownership of real and personal property necessary and convenient to its business." He added, "Purchasers of acquired property are not required to be eligible borrowers and, of course, only an eligible borrower can buy stock."⁶⁷

Sales of acquired land through purchase contracts without requiring borrowers to purchase stock is a clear violation of the cooperative principle of the Farm Credit System, and the tortured reasoning FCA used to justify the action does not make it right.

VI. THE ISSUE OF LOCAL CONTROL

A common thread woven through the investigation of the subcommittee was that of who controls the Farm Credit System: The owner-borrowers or their employees at the district level. No clear answer emerged.

The theoretical structure puts the owners in control through elected representatives. The directors of associations are elected by the owners. Those directors elect members of the district board of directors. The borrowers own the associations, the associations own the district banks.

At the association level, the elected board members hire a chief executive officer and other employees. They establish by-laws for the association. They provide for a loan-approval process, in the case of PCAs, or a loan-recommendation process, in the case of FLBAs. They set the policies for the association.

At the district level, the directors serve as directors for each of the three banks as well as for the district itself. They hire the chief executive officer for the district, and they decide whether each bank will have a chief executive or if the positions will be combined. They adopt by-laws, and they decide on whether creditworthiness terms need to be loosened or tightened.

At the Federal level, before enactment of Public Law 99-205, the Federal Farm Credit Board was selected by the President of the United States from nominees by the district boards. The Farm Credit Board selected the Governor; and he, by statute, was designed to be carrying out the policy of the Board. FCA by statute

⁶⁵ Id. at 309.

⁶⁶ Id. at 311.

⁶⁷ Id. at 358.

had a number of explicit supervisory functions over banks and associations, and it also served as the regulator.

As a supervisor, FCA issued charters to associations and approved their by-laws. It could revoke charters and change by-laws. It approved or disapproved financing plans of the banks. It approved interest rates to be paid for financing and to be charged by the banks when they loaned to associations or individuals. It approved the salary of the district and bank chief executive officers and the salary schedule of all other employees. It set collateral requirements and loan limits. It could move funds from one institution to another. It levied assessments against the system to pay for its own operations. If the Governor held stock in any of the institutions, he decided what could be done with any profits that might have been earned.

As a regulator, FCA had specific statutory authority to examine and audit each institution and the statute said that the examinations "shall include objective appraisals of the effectiveness of management and application of policies in carrying out the provisions of this chapter and in servicing all eligible borrowers."

With such a catch-all phrase, coupled with specific supervisory authority, FCA in reality had control of the system. Local control could be limited, as a matter of course, to little more than election of an association board and even then FCA could set the election-day rules.

FCA did not exercise all of its authority. It delegated to districts and district banks a number of its supervisory functions and gave them specific examination and audit authority over the associations.⁶⁸ The banks already had the power of the purse over salaries of association employees as well as the right to approve loans.

So, in reality, control was accumulated at the district level. FCA had given the districts many powers, and Governor Wilkinson testified that he exercised FCA-reserved powers in the manner recommended by the district.

District and FCA officials who testified before the subcommittee spoke in glowing terms of the cooperative nature of FCS, and of the system of board of director control. But they did not always seem to hold the system in the highest esteem.

For instance, Mr. Jack Perry, president of the Wichita district, said there is very little stockholder interest in mergers. "Most of the resistance to mergers that we have had in the past has not come from the ultimate user of the system, the farmers and ranchers, but from employees and association directors. . . . There is a very, very small proportion of the stockholders that vote or come to the meeting."⁶⁹

Governor Wilkinson said, "One of the basic problems, Mr. Chairman, is that in those years (go-go years), and perhaps even still today, these farmer-elected boards believe that they have the mandate to ask their management teams to function in the way that they believe their borrowers desire."⁷⁰

⁶⁸ Id. at 280.

⁶⁹ Id. at 131.

⁷⁰ Id. at 277.

Mr. Edwards said, "Farmers themselves sitting on those boards are the ones that ultimately make the decisions when they are going to compromise a loan or foreclose on it, and they are very reluctant to enter into compromises, even where you could demonstrate it might be in the best interest of the institution. The fear that they would establish a reputation and that all delinquent borrowers would expect that and the attitude that my loan is current and his ought to be too."⁷¹

Speaking of his decision to allow overchartering of territory of associations which dissent to districtwide mergers, Governor Wilkinson said, "I think the decision that has to be made by the district board, and ultimately it comes to the Governor, is, as you look at all of the borrowers in that district, how best can those borrowers in a given area be served? If there is an association there that for some reason, because its board members are protecting their own interests or whatever it might be, are unable to provide the services as efficiently, as rapidly, as totally—" Cut off at that point by the chairman, he admitted that the associations in question were sound and providing services.⁷²

"One of the basic problems which our Farm Credit System * * * faces and has faced for a period of time is that its structure was dealing with the structure of agriculture in the 1930s and 1940s and 1950s, and the system has not changed in that structure. It still has rigidly separated credit banks and PCAs, land banks and BCs, and they cannot do anything because of the act of Congress. The important thing is not the number of PCAs. The important thing is how does a farmer today, a rancher today, and an agricultural cooperative today, want to be served," the Governor said.⁷³

"It (the system) has to evaluate how many directors does it still have to have. Per diem cost, \$5,000 to \$7,000 directors happen to be costly," the Governor said at another point.⁷⁴

Again, Governor Wilkinson said, "* * * when you have boards who are truly good agriculturists but they are beginning for the first time to face some adversity in the financial community, it is difficult for them to take the necessary steps to keep their association solvent. They are more concerned, because they believe this is their mandate, to do whatever is necessary to serve their individual borrowers, the members of their credit cooperative."⁷⁵

Governor Wilkinson wrote, in answer to Representative Kindness' written question, "Poor management can certainly be considered one of the reasons for poor lending decisions made by some associations. Another factor for poor lending decisions was the once-popular use of director loan committees wherein elected directors, themselves borrowers, in large part constituted the association's loan committee. This practice was considered by FCA to be an ineffective method for loanmaking decisions. * * * FCA, through its supervisory influence, directed associations to adopt professional loan committees consisting primarily of the association

⁷¹ Id. at 297.

⁷² Id. at 317.

⁷³ Id. at 344.

⁷⁴ Id. at 371. Cited as printed, however the context indicates the dollar signs are incorrect.

⁷⁵ Id. at 278.

loan officers and management in an effort to improve the quality of the loanmaking function."⁷⁶

These expressions and other discussion at the hearing leaves the impression that FCA's leadership had more faith in hired management of the system than it did in the system's owners.

At one point in the hearing, Mr. Edwards stated that it seemed inconsistent to him for Members to be arguing for the preservation of local control of the system on the one hand and for the Governor "jerking the capital around" on the other.⁷⁷

Any inconsistency was that of the Governor in the use of his authority to regulate the system. When financial problems were readily apparent in the Spokane district, FCA did not use its authority to alleviate the problems. When it finally did use its authority, it was to coerce dissenting and financially healthy associations to give up their charters or find themselves in direct competition with newly chartered associations.

Local control, as envisioned in the statutes, is not absolute; it is subject to numerous and broad authorities vested in FCA. Timely and judicious use of that authority by the Governor would have alleviated some of the financial problems in various parts of the system and, in so doing, lessened the apparent need to take the drastic measures imposed by the system upon its institutions in 1985.

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⁷⁶ Id. at 354.

⁷⁷ Id. at 330.